

STANDARD APPLICATION

Harford County Board of Appeals

Bel Air, Maryland 21014

RECEIVED

FEB 14 2006

HARFORD COUNTY BOARD OF APPEALS

Case No. 5525

Date Filed 2/8/06

Hearing Date

Receipt

Fee \$650.00

Shaded Areas for Office Use Only

Type of Application

Nature of Request and Section(s) of Code

- ☐ Administrative Decision/Interpretation
☒ Special Exception
☐ Use Variance
☐ Change/Extension of Non-Conforming Use
☐ Minor Area Variance
☐ Area Variance
☐ Variance from Requirements of the Code
☐ Zoning Map/Drafting Correction
☒ Variance from Sign Code Requirements

CASE 5525 MAP 49 TYPE Variance and Special Exception

ELECTION DISTRICT 03 LOCATION 1115 Emmorton Road, Bel Air 21014

BY Benjamin and Sara Bernstein

Appealed because a variance pursuant to Sec. 219-17, 219-13(B) and 219-5(B) of the Harford County Sign Code to permit a freestanding sign, five feet in height and nine feet in width for a total area of forty-five square feet, with a two foot setback from the road right-of-way and a special exception pursuant to Sec. 267-53(H)(9)(b) of the Harford County Zoning Code to operate a health services and medical clinic with three health professionals in the RO District, requires approval by the Board.

NOTE: A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.

Applicant/Owner (please print or type)

Name Benjamin D. Bernstein Phone Number call attorney

Address 1115 Emmorton Road Bel Air MD 21014
 Street Number Street City State Zip Code

Co-Applicant Sara L. Bernstein Phone Number call attorney

Address 1115 Emmorton Road Bel Air MD 21014
 Street Number Street City State Zip Code

Contract Purchaser N/A Phone Number

Address Street Number Street City State Zip Code

Attorney/Representative John J. Gessner Phone Number 410-893-7500

Address 11 S. Main Street, P.O. 1776 Bel Air MD 21014-7776
 Street Number Street City State Zip Code

Rev. 12/02

Land Description

Address and Location of Property Lot 5.90 AC 1115 Emmorton Road
S of Bel Air

Subdivision _____ Lot Number _____

Acreage/Lot Size 5.90 +/- Election District 3 Zoning RO

Tax Map No. 49 Grid No. 3C Parcel 176 Water/Sewer: Private _____ Public X

List ALL structures on property and current use: Single family detached home/medical office; swimming pool

Estimated time required to present case: 30 minutes

If this Appeal is in reference to a Building Permit, state number N/A

Would approval of this petition violate the covenants and restrictions for your property? _____

Is this property located within the County's Chesapeake Bay Critical Area? Yes _____ No X

If so, what is the Critical Area Land Use designations: _____

Is this request the result of a zoning enforcement investigation? Yes X No _____

Is this request within one (1) miles of any incorporated town limits? Yes X No _____

Request

See attached

Justification

See attached

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)

10 : 2/7/06
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ATTACHMENT TO APPLICATION OF BENJAMIN D. AND SARA L. BERNSTEIN

REQUEST:

1. A variance pursuant to Section 219-17 of the Harford County Sign Code ("Sign Code") from the provisions of Sections 219-13(B) and 219-5(B) of the Code to erect a freestanding sign, perpendicular to Route 924, (Emmorton Road) five (5) feet in height and nine (9) feet in width for a total area of forty-five (45) square feet, with a two (2) foot setback from the road right of way of Route 924 on the subject property, zoned RO Residential Office, as shown on the attached site plan and on the attached sign rendering.

2. Special exception approval pursuant to Section 267-53 (H)(9)(b) of the Harford County Zoning Code ("Zoning Code") to operate a health services and medical clinic with three (3) health professionals (physicians) on the subject property zoned RO, as shown on the attached site plan.

JUSTIFICATION:

History of Property. The subject property has been used for professional services since approximately 1965 as a dental office and a medical office. In 1979, the Applicants purchased the subject property from Mary Louise Snyder who resided in the dwelling located on the subject property and operated her real estate sales office from the subject property. Beginning in 1979, Dr. Bernstein operated his dermatology practice from the bottom floor of the dwelling and resided on the second floor of the dwelling with his wife and two children. In 1987, Dr. Bernstein took on Dr. Howard Robinson as a partner and since that time the subject property has been used as the medical office of Bernstein and Robinson P.A. which specializes in dermatology. Presently, Dr. Bernstein and Dr. Robinson are employed in the practice. In 1980 in Board of Appeals Case No. 2542, Dr. Bernstein received approval to construct a freestanding sign on the subject property which was then zoned R-2, Urban Residential. The subject property was rezoned RO in 1996. In 2001 in Board of Appeals Case No. 5151, the Applicants received permission of the Board of Appeals to erect a new sign on the property. Due to road improvements on Maryland Route 924, the Applicants need to revise the sign to provide proper visibility and traffic safety. Dr. Bernstein and his family no longer reside in the dwelling. The Applicants are converting the interior of the dwelling into additional office space. Drs. Bernstein and Robinson are nearing retirement and want to reduce their hours in the office. Unless another physician can practice with them, this will cause a hardship to current patients and cause a net reduction in the number of patients that can be seen. Therefore, Drs. Bernstein and Robinson wish to take on another partner which will bring the total number of health professionals in the office to three (3), which requires a special exception. Given the nature of their practice, it is unlikely that all 3 physicians will see patients in the office at the same time. No changes to the dimensions of the existing building are proposed. No exterior changes to the existing building are proposed.

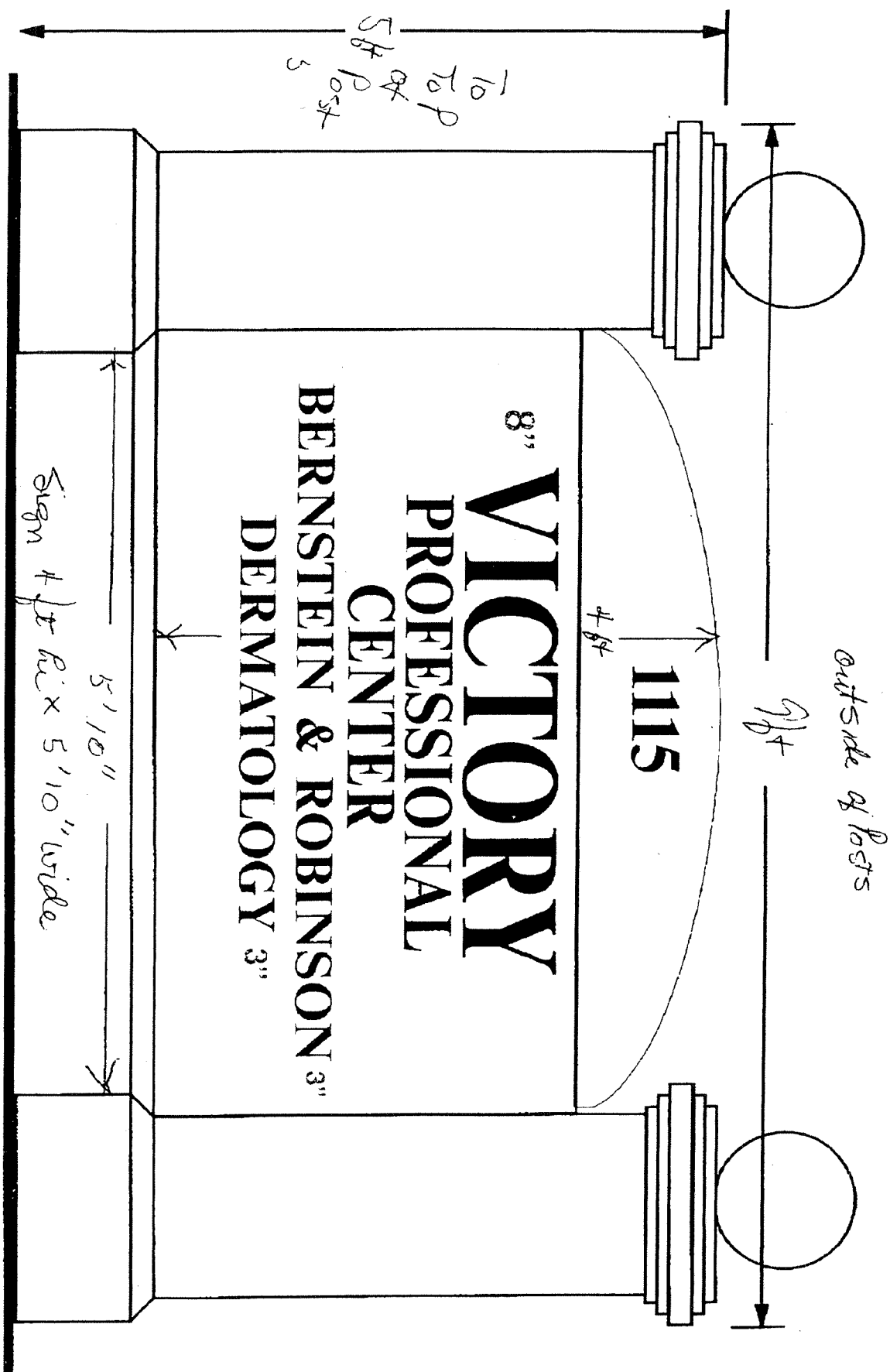
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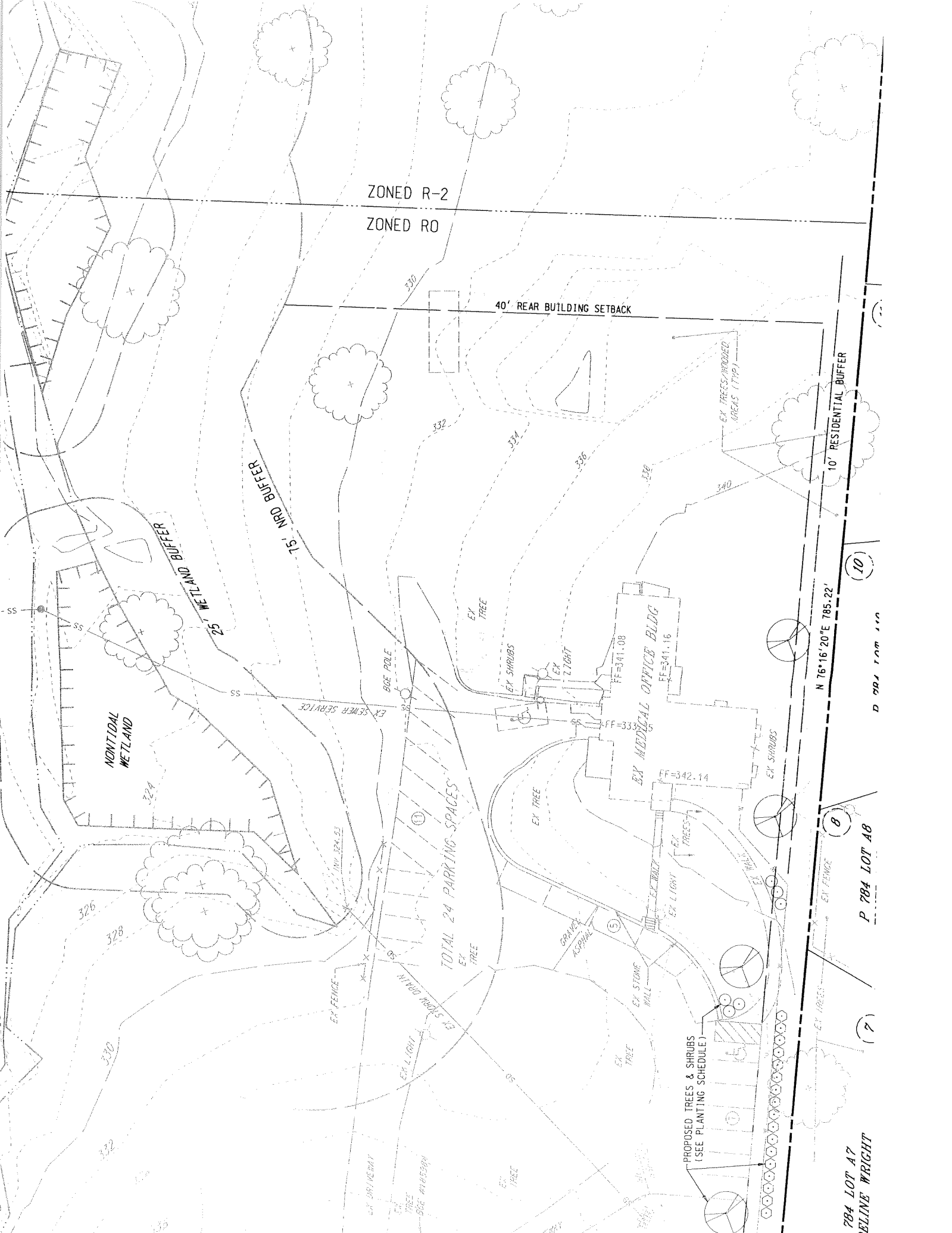
2 : 21961

207633

1. By reason of the configuration of the subject property, topographical conditions and other exceptional circumstances unique to the subject property, compliance with the provisions of the Sign Code would cause practical difficulty to the Applicants. Construction of a sidewalk along Route 924 would interfere with the visibility of smaller sign. As can be seen from the attached sign rendering, the proposed sign is attractively designed, is very similar to the existing approved sign and is merely located in a slightly different location.

2. The requested special exception is compatible with uses permitted as of right in the RO District and will not cause adverse impact.





ZONED R-2

ZONED RO

40' REAR BUILDING SETBACK

15' NRD BUFFER

25' WETLAND BUFFER

10' RESIDENTIAL BUFFER

NON-TIDAL WETLAND

TOTAL 24 PARKING SPACES

EX MEDICAL OFFICE BLDG

PROPOSED TREES & SHRUBS
(SEE PLANTING SCHEDULE)

P 784 LOT A7
DELIN WRIGHT

P 784 LOT A8

N 76°16'20"E 785.22'

D 994' 100' 110'

DAVID R. CRAIG
HARFORD COUNTY EXECUTIVE

LORRAINE COSTELLO
DIRECTOR OF ADMINISTRATION



C. PETE GUTWALD
DIRECTOR OF PLANNING & ZONING

HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

March 8, 2006

STAFF REPORT

BOARD OF APPEALS CASE NO. 5525

APPLICANT/OWNER: Benjamin D. Bernstein
1115 Emmorton Road, Bel Air, Maryland 21014

Co-APPLICANT: Sara L Bernstein
1115 Emmorton Road, Bel Air, Maryland 21014

REPRESENTATIVE: John J. Gessner
11S. Marin Street, P.O. Box 1776, Bel Air, Maryland 21014-7776

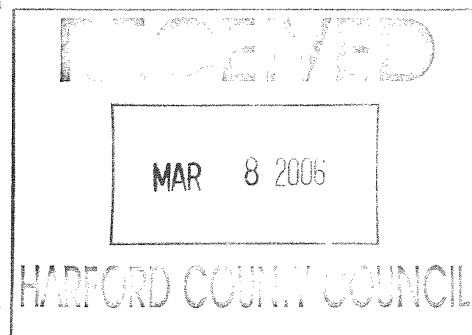
LOCATION: 1115 Emmorton Road
Tax Map: 49 / Grid: 3C / Parcel: 176
Election District: Three (3)

ACREAGE: 5.90 acres

ZONING: RO/Residential Office and R2/Urban Residential

DATE FILED: February 8, 2006

HEARING DATE: April 5, 2006



APPLICANT'S REQUEST and JUSTIFICATION:

See ATTACHMENT 1.

CODE REQUIREMENTS:

The Applicants are requesting a variance pursuant to Section 219-17, 219-13(B) and 219-5(B) of the Harford County Sign Code to permit a freestanding sign, five (5) feet in height and nine (9)

Preserving Harford's past; promoting Harford's future.

MY DIRECT PHONE NUMBER IS (410) 638-3103

220 SOUTH MAIN STREET BEL AIR, MARYLAND 21014 410.638.3000 • 410.879.2000 • TTY 410.638.3086 • www.harfordcountymd.gov

THIS DOCUMENT IS AVAILABLE IN ALTERNATIVE FORMAT UPON REQUEST.

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feet in width for a total area of forty-five (45) square feet, with a two foot setback from the road right-of-way and a Special Exception pursuant to Section 267-53(H)(9)(b) of the Harford County Zoning Code to operate a health services and medical clinic with three health professionals in the RO/Residential Office District.

Section 219-17 of the Harford County Sign Code reads:

The Board may grant a variance from the provisions of this Chapter if, by reason of the configuration or irregular shape of the lot or by reason of topographic conditions or other exceptional circumstances unique to the lot or building, practical difficulty or unnecessary hardship results. The Board shall, before granting the variance, make a written finding as part of the record that the conditions or circumstances described are unique to the lot or building, that the conditions or circumstances cause the difficulty or hardship and that the variance can be granted without impairment of the purpose and provisions of this chapter.

Section 219-5(B) of the Harford County Sign Code reads:

- B. *Freestanding signs. A freestanding sign shall include any sign supported by uprights or braces placed upon the ground and not attached to any building. Business signs may be freestanding if the property has a minimum of forty (40) feet of road frontage. The sign area shall be calculated on the basis of one (1) square foot of sign for every foot of property road frontage. However, the maximum area of any freestanding sign shall not exceed two hundred (200) square feet. The setback measured to the edge of the sign shall be equal to one-third (1/3) of the required building setback. Unless otherwise provided herein, the maximum height allowed for any freestanding sign, is thirty-five (35) feet above the nearest public road grade. [Amended by Bill No 86-28]*

Section 219-13(B) of the Harford County Sign Code reads:

- B. *Residential/Office district (RO).*
- (1) *The following signs shall be allowed:*
 - (a) *One freestanding sign per parcel, which shall have a maximum of eight square feet in area, shall be no more than six feet in height and shall be placed perpendicular to the road; and*
 - (b) *A wall sign for each use, which shall be attached only to the front of a building, shall be adjacent to the front entryway and shall be no larger than four square feet in area.*

Section 267-53(H)(9)(b) of the Harford County Code reads:

- (9) *Health services and medical clinics.*
 - (b) *Theses uses may be granted in the RO District, provided that:*
 - [1] *The structure shall be of a size, scale and façade compatible with the surrounding residential neighborhood.*

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[2] *All parking shall be accommodated on the site in a manner compatible with the surrounding roads and uses, and a landscaped buffer yard ten feet wide shall be provided between the parking area and any adjacent residential lot.*

Enclosed with the report is a copy of Section 267-51 and 267-52 of the Harford County Code (Attachment 2).

Section 267-9I of the Harford County Code entitled Limitation, Guides and Standards will be discussed in detail later in the report.

LAND USE and ZONING ANALYSIS:

Land Use – Master Plan:

The Applicant's property is located south of the Town limits of Bel Air, on the east side of Emmorton Road (MD Route 924) south of Victory Lane. A location map and a copy of the Applicant's site plan are enclosed with the report (Attachments 3 and 4).

The subject property is located within the Development Envelope. The immediate surrounding area is designated as Low Intensity. The Natural Features Map reflects sensitive species project review areas and stream systems. The subject property is designated as Low Intensity which is defined by the 2004 Master Plan as:

***Low Intensity** – Areas within the Development Envelope where residential development is the primary land use. Density ranges from 1.0 to 3.5 dwelling units per acre. Neighborhood commercial uses such as convenience stores, doctors' offices, and banks are example of some of the nonresidential uses associated with this designation.*

Enclosed with the report are copies of portions of the 2004 Land Use Map and the Natural Features Map (Attachments 5 and 6).

Land Use – Existing:

The existing land uses conform to the intent of the Master Plan. The area contains a mix of residential housing types. There are also commercial and institutional land uses. The topography ranges from rolling to steep. Enclosed with the report is a topographic map and a copy of the aerial photograph (Attachments 7 and 8).

The subject property is rectangular in shape and approximately 5.90 acres in size. The property has frontage on Emmorton Road (MD 924) and Woodland Drive to the rear of the property which is a residential subdivision road. Access to the site is from Emmorton Road. Approximately one half of the property is wooded. The existing improvements are located in the middle of the property. The Applicants previously received site plan approval for new medical

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offices on the subject site. The Applicants have indicated that they no longer wish to move forward with that plan. Improvements include a paved driveway and parking area along the circular driveway which is being widened and improved and an in ground pool. There is a free-standing sign which was the subject of previous Board of Appeals cases. Site photographs along with an enlargement of the aerial photograph are enclosed with the report (Attachments 9 and 10).

Zoning:

The zoning classifications in the area are consistent with the 2004 Master Plan as well as the existing land uses. Zoning Districts in the immediate area of the subject property include RO/Residential Office along with R1 and R2/Urban Residential. The subject property is zoned RO/Residential Office and R2/Urban Residential to the rear. All of the improvements for the requested use are located within the RO zoned portion of the property. Enclosed with the report is a copy of the Zoning Map (Attachment 11).

SUMMARY:

The Applicants are requesting a variance pursuant to Section 219-17, 219-13(B) and 219-5(B) of the Harford County Sign Code to permit a freestanding sign, five (5) feet in height and nine (9) feet in width for a total area of forty-five (45) square feet, with a two foot setback from the road right-of-way and a Special Exception pursuant to Section 267-53(H)(9)(b) of the Harford County Zoning Code to operate a health services and medical clinic with three health professionals in the RO/Residential Office District.

Section 219-17:

The Board may grant a variance from the provisions of this Chapter if, by reason of the configuration or irregular shape of the lot or by reason of topographic conditions or other exceptional circumstances unique to the lot or building, practical difficulty or unnecessary hardship results. The Board shall, before granting the variance, make a written finding as part of the record that the conditions or circumstances described are unique to the lot or building, that the conditions or circumstances cause the difficulty or hardship and that the variance can be granted without impairment of the purpose and provisions of this chapter.

Section 219-5(B) of the Harford County Sign Code reads:

- B. Freestanding signs. A freestanding sign shall include any sign supported by uprights or braces placed upon the ground and not attached to any building. Business signs may be freestanding if the property has a minimum of forty (40) feet of road frontage. The sign area shall be calculated on the basis of one (1) square foot of sign for every foot of property road frontage. However, the maximum area of any freestanding sign shall not exceed two hundred (200) square feet. The setback measured to the edge of the sign shall be equal to one-third (1/3) of the required building setback. Unless otherwise provided*

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herein, the maximum height allowed for any freestanding sign, is thirty-five (35) feet above the nearest public road grade. [Amended by Bill No 86-28]

Section 219-13(B) of the Harford County Sign Code reads:

C. *Residential/Office district (RO).*

(1) *The following signs shall be allowed:*

- (a) *One freestanding sign per parcel, which shall have a maximum of eight square feet in area, shall be no more than six feet in height and shall be placed perpendicular to the road; and*
- (b) *A wall sign for each use, which shall be attached only to the front of a building, shall be adjacent to the front entryway and shall be no larger than four square feet in area.*

The requested variance is to erect a freestanding sign perpendicular to Route 924, (Emmorton Road) (5) five feet in height, (9) nine feet in width for a total of (45) square feet, and with a (2) two foot setback from the road right of way of Emmorton Road (MD 924). The subject property is zoned RO/Residential Office District. Signs on this property have been the subject of two previous Board of Appeals requests and approvals (Cases 2542 and 5151-Attachments 12 and 13). Case 2542 allowed the Applicant to erect a 1 ½ by 2 foot sign which remained in the same place for approximately 22 years. Case 5151, approved on August 21, 2001, was for a sign the same size parallel to the road and in the same location as being requested in the subject case. The Hearing Examiner found that the property was unique based on topography. The sign was to be located with the face of the sign parallel with MD Route 24. Emmorton Road is presently undergoing road improvements that include widening, new storm drain systems and sidewalks. The request in the present case is to take the same sign and turn it perpendicular to the road for better visibility and is the only change from what was previously approved. The Department finds that the subject property is unique based on topography and site characteristics.

Section 267-53(H)(9)(b):

(10) *Health services and medical clinics.*

- (b) *Theses uses may be granted in the RO District, provided that:*

The existing and proposed improvements are located within the RO zoned area of the property.

- [1] *The structure shall be of a size, scale and façade compatible with the surrounding residential neighborhood.*

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The property contains an existing building that was once a single family residence. The property has been used as professional offices since 1965. First as a dental office and then a medical office. In addition, Ms. Snyder who once resided in the dwelling operated her real estate office from the property. Beginning in 1979 Dr. Bernstein began his dermatology practice at this location. The Applicants do not plan to expand the existing building. The Department finds that the size and scale of the building is compatible with the surrounding neighborhood.

- [2] *All parking shall be accommodated on the site in a manner compatible with the surrounding roads and uses, and a landscaped buffer yard ten feet wide shall be provided between the parking area and any adjacent residential lot.*

The existing parking is located to the front and left side of the existing building which is over 300 feet back from the road. The driveway comes in from MD Route 924, curves in front of the house and circles back toward MD 924. The Applicants proposes additional landscaping in the 10 foot buffer between the parking area and the adjacent residential lots.

Section 267-9I:

- (1) *The number of persons living or working in the immediate area.*

This property has been used for medical offices since 1965. The addition of another doctor should not have any impact on persons living or working in the immediate area.

- (2) *Traffic conditions, including facilities for pedestrians, such as sidewalks and parking facilities, the access of vehicles to roads; peak periods of traffic, and proposed roads, but only if construction of such roads will commence within the reasonably foreseeable future.*

The property has access from Emmorton Road (MD Route 924), which is State owned and maintained. MD Route 924 from U.S Route 1 to MD Route 24 is listed as a minor Arterial – Urban Road in the County’s adopted Transportation Plan. The road is undergoing improvements in the area of the subject property including widening, storm drains and sidewalks. The request should have no impact on the traffic conditions in the area.

- (3) *The orderly growth of the neighborhood and community and the fiscal impact on the county.*

The property has been used for medical offices since 1965. Dr. Bernstein has operated his practice from this location since 1979. The request is consistent with the orderly growth of the neighborhood and will not have an adverse fiscal impact on the county.

- (4) *The effect of odors, dust, gas, smoke, fumes, vibration, glare and noise upon the use of surrounding properties.*

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The proposed use should have no adverse impact on the surrounding community based on the issues listed in this subsection.

- (5) *Facilities for police, fire protection, sewerage, water, trash and garbage collection and disposal and the ability of the county or persons to supply such services.*

The County Sheriff's Office and the Maryland State Police will provide police protection. The Bel Air Volunteer Fire Company will provide fire protection. The property will be served by public water and sewer. A company of the Applicants' choice will handle garbage and trash collection.

- (6) *The degree to which the development is consistent with generally accepted engineering and planning principles and practices.*

The request is consistent with generally accepted planning principles.

- (7) *The structures in the vicinity, such as schools, houses of worship, theaters, hospitals and similar places of public use.*

The proposal should have no adverse impact on institutional uses in the area.

- (8) *The purposes set forth in this Part 1, the Master Plan and related studies for land use, roads, parks, schools, sewers, water, population, recreation and the like.*

The request is consistent with the County's Master Plan.

- (9) *The environmental impact, the effect on sensitive natural features and opportunities for recreation and open space.*

The proposed use should have no environmental impact.

- (10) *The preservation of cultural and historic landmarks.*

Not applicable to the request.

The Health Department, in a letter dated February 17, 2006, stated that they have no comments concerning the subject request (Attachment 14).

The Applicants previously received approval to create two residential lots in the R2 zoned area of the property. The Applicants have indicated that they do not plan to subdivide the property at this time. Any plans to subdivide in the future would have to meet all applicable County and State requirements.

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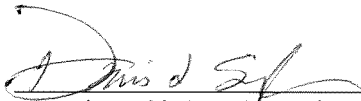
Benjamin and Sara Bernstein


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RECOMMENDATION and or SUGGESTED CONDITIONS:

The Department of Planning and Zoning recommends that the special exception and variance be approved subject to the following conditions.

- 1) The approval shall be limited to three physicians.
- 2) The Applicants shall obtain a permit for the new sign location.


Dennis J. Sigler, Coordinator
Zoning & Board of Appeals Review


Anthony S. McClune, AICP
Deputy Director, Planning and Zoning

DJS/ASM/jf